IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1158 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GIRISHBHAI BHURJIBHAI NINAMA - Applicant(s)
Versus
STATE OF GUJARAT & 17 - Respondent(s)

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Appearance :
MR PP MAJMUDAR for Applicant(s) : 1,
Mr.RC Kodekar, Addl. Public Prosecutor for Respondent(s) : 1,
None for Respondent(s) : 2 - 18.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 05/07/2007
ORAL JUDGMENT

By way of this petition under Article 226/227 of the Constitution of India the petitioner has prayed for an appropriate writ, order or directions directing the respondents No.

2 and 3 to register the complaint as FIR under Section 154 of Criminal Procedure Code.

2. Shri RC Kodekar, learned APP under instructions from one Shri BM Patel, PSI of Kosamba police station has submitted that the complaint submitted by the petitioner is inquired into by him and prima facie it is found that it is a civil dispute and no cognizable offence is made out.

3. It is required to be noted that considering the provisions of Section 154, Cr.P.C., once an information is given to the concerned police station for the cognizable offence under the I.P.C., at that stage the police officer is not required to go into the genuineness of the allegations. He is required to register the FIR and thereafter shall further investigate into the matter. As held by the Hon'ble Supreme Court in the case of ***Parkash Singh Badal And Another Vs. State of Punjab and***

Others, reported in ***(2007) 1 SCC Page 1*** the Police Officer concerned cannot embark upon an enquiry as to whether the information laid by the informant is reliable and genuine and refuse to register a case on the ground that the information is not reliable or credible. The Officer is statutorily obliged to register a case. “Reasonableness” or “credibility” of the information is not a condition precedent for registration of a case. The condition which is *sine qua non* for recording FIR is that there must be information and that information must disclose a cognizable offence. Under the circumstances, the respondent No.3 is directed to register the complaint of the petitioner as 'FIR' under Section 154 of Cr.P.C., and he is further directed to investigate the case in accordance with law and on merits. It is, however, made clear that this Court has not expressed any opinion on merits and the allegations made in the complaint and this order is passed directed the respondent No.3 to register the complaint as FIR

only. With these, the present application is disposed of. Rule is made absolute to the aforesaid extent. Direct service is permitted.

[M.R. Shah, J.]

rmr.